

Office of the Secretary of Labor

administrative law judge may advance pleading schedules, prehearing conferences, and the hearing, as deemed appropriate; provided, however, that a hearing on the merits shall not be scheduled with less than five (5) working days notice to the parties, unless all parties consent to an earlier hearing.

(f) When expedited hearings are required by statute or regulation, such hearing shall be scheduled within sixty (60) days from the receipt of request for hearing or order of reference. The decision of the administrative law judge shall be issued within twenty (20) days after receipt of the transcript of any oral hearing or within twenty (20) days after the filing of all documentary evidence if no oral hearing is conducted.

§ 18.43 Formal hearings.

(a) *Public.* Hearings shall be open to the public. However, in unusual circumstances, the administrative law judge may order a hearing or any part thereof closed, where to do so would be in the best interests of the parties, a witness, the public or other affected persons. Any order closing the hearing shall set forth the reasons for the decision. Any objections thereto shall be made a part of the record.

(b) *Jurisdiction.* The administrative law judge shall have jurisdiction to decide all issues of fact and related issues of law.

(c) *Amendments to conform to the evidence.* When issues not raised by the request for hearing, prehearing stipulation, or prehearing order are tried by express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings. Such amendment of the pleadings as may be necessary to cause them to conform to the evidence may be made on motion of any party at any time; but failure to so amend does not affect the result of the hearing of these issues. The administrative law judge may grant a continuance to enable the objecting party to meet such evidence.

§ 18.44 [Reserved]

§ 18.45 Official notice.

Official notice may be taken of any material fact, not appearing in evi-

dence in the record, which is among the traditional matters of judicial notice; Provided, however, that the parties shall be given adequate notice, at the hearing or by reference in the administrative law judge's decision, of the matters so noticed, and shall be given adequate opportunity to show the contrary.

§ 18.46 In camera and protective orders.

(a) *Privileges.* Upon application of any person the administrative law judge may limit discovery or introduction of evidence or issue such protective or other orders as in his or her judgment may be consistent with the objective of protecting privileged communications.

(b) *Classified or sensitive matter.* (1) Without limiting the discretion of the administrative law judge to give effect to any other applicable privilege, it shall be proper for the administrative law judge to limit discovery or introduction of evidence or to issue such protective or other orders as in his or her judgment may be consistent with the objective of preventing undue disclosure of classified or sensitive matter. Where the administrative law judge determines that information in documents containing sensitive matter should be made available to a respondent, he or she may direct the party to prepare an unclassified or nonsensitive summary or extract of the original. The summary or extract may be admitted as evidence in the record.

(2) If the administrative law judge determines that this procedure is inadequate and that classified or otherwise sensitive matter must form part of the record in order to avoid prejudice to a party, he or she may advise the parties and provide opportunity for arrangements to permit a party or a representative to have access to such matter. Such arrangements may include obtaining security clearances or giving counsel for a party access to sensitive information and documents subject to assurances against further disclosure.

§ 18.47 Exhibits.

(a) *Identification.* All exhibits offered in evidence shall be numbered and marked with a designation identifying